



Sen. William R. Haine

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09500SB1347sam002

LRB095 04890 LCT 34074 a

1 AMENDMENT TO SENATE BILL 1347

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1347, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 Section 5. The High Risk Home Loan Act is amended by  
6 changing Section 10 as follows:

7 (815 ILCS 137/10)

8 Sec. 10. Definitions. As used in this Act:

9 "Approved credit counselor" means a credit counselor  
10 approved by the Director of Financial Institutions.

11 "Borrower" means a natural person who seeks or obtains a  
12 high risk home loan.

13 "Commissioner" means the Commissioner of the Office of  
14 Banks and Real Estate.

15 "Department" means the Department of Financial  
16 Institutions.

1 "Director" means the Director of Financial Institutions.

2 "Good faith" means honesty in fact in the conduct or  
3 transaction concerned.

4 "High risk home loan" means a home equity loan in which (i)  
5 at the time of origination, the annual percentage rate exceeds  
6 by more than 6 percentage points in the case of a first lien  
7 mortgage, or by more than 8 percentage points in the case of a  
8 junior mortgage, the yield on U.S. Treasury securities having  
9 comparable periods of maturity to the loan maturity as of the  
10 fifteenth day of the month immediately preceding the month in  
11 which the application for the loan is received by the lender or  
12 (ii) the total points and fees payable by the consumer at or  
13 before closing will exceed the greater of 5% of the total loan  
14 amount or \$800. The \$800 figure shall be adjusted annually on  
15 January 1 by the annual percentage change in the Consumer Price  
16 Index for All Urban Consumers for all items published by the  
17 United States Department of Labor. "High risk home loan" does  
18 not include a loan that is made primarily for a business  
19 purpose unrelated to the residential real property securing the  
20 loan or to an open-end credit plan subject to 12 CFR 226 (2000,  
21 no subsequent amendments or editions are included).

22 "Home equity loan" means any loan secured by the borrower's  
23 primary residence where the proceeds are not used as purchase  
24 money for the residence.

25 "Lender" means a natural or artificial person who  
26 transfers, deals in, offers, or makes a high risk home loan.

1 "Lender" includes, but is not limited to, creditors and brokers  
2 who transfer, deal in, offer, or make high risk home loans.  
3 "Lender" does not include purchasers, assignees, or subsequent  
4 holders of high risk home loans.

5 "Office" means the Office of Banks and Real Estate.

6 "Points and fees" means all items required to be disclosed  
7 as points and fees under 12 CFR 226.32 (2000, no subsequent  
8 amendments or editions included); the premium of any single  
9 premium credit life, credit disability, credit unemployment,  
10 or any other life or health insurance that is financed directly  
11 or indirectly into the loan; and compensation paid directly or  
12 indirectly to a mortgage broker, including a broker that  
13 originates a loan in its own name in a table-funded  
14 transaction, not otherwise included in 12 CFR 226.4. "Points  
15 and fees" does not include: (i) fees paid to the Veterans  
16 Administration required by law; (ii) fees paid to the Federal  
17 Housing Administration required by law; or (iii) fees paid to  
18 the United States Department of Agriculture's Rural  
19 Development Loan Program required by law.

20 "Reasonable" means fair, proper, just, or prudent under the  
21 circumstances.

22 "Servicer" means any entity chartered under the Illinois  
23 Banking Act, the Savings Bank Act, the Illinois Credit Union  
24 Act, or the Illinois Savings and Loan Act of 1985 and any  
25 person or entity licensed under the Residential Mortgage  
26 License Act of 1987, the Consumer Installment Loan Act, or the

1 Sales Finance Agency Act who is responsible for the collection  
2 or remittance for, or has the right or obligation to collect or  
3 remit for, any lender, note owner, or note holder or for a  
4 licensee's own account, of payments, interest, principal, and  
5 trust items (such as hazard insurance and taxes on a  
6 residential mortgage loan) in accordance with the terms of the  
7 residential mortgage loan, including loan payment follow-up,  
8 delinquency loan follow-up, loan analysis, and any  
9 notifications to the borrower that are necessary to enable the  
10 borrower to keep the loan current and in good standing.

11 "Total loan amount" has the same meaning as that term is  
12 given in 12 CFR 226.32 and shall be calculated in accordance  
13 with the Federal Reserve Board's Official Staff Commentary to  
14 that regulation.

15 (Source: P.A. 93-561, eff. 1-1-04.)".